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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,814	10/24/2001	Joseph H. Bartozzi		5922

27804 7590 02/26/2003  
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LONGMEADOW, MA 01106-1700

EXAMINER

THOMSON, MICHELLE R

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 02/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/998,814	BARTOZZI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michelle (Shelley) Thomson	3641	

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 October 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 and 16-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> | 6) <input type="checkbox"/> Other:  |

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 1-10 and 16-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 7.
2. The traversal is on the ground(s) that Group I and II and the species of Sections 5(A) and 5(B) are not properly restricted. This is not found persuasive because Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). By using a limited claim, applicant asserts that the conditions are not met. This is not persuasive because as applicant has stated in the present application the process for using the product can be practiced with any number of locking devices as disclosed by applicant (page 5, lines 8-10). To further elaborate on applicant's assertion. The process recited in Claim 1 can be practiced with a product materially different from the product recited in Claim 11, such as any number of lock means, as applicant has disclosed.
3. In response to applicant's arguments concerning the species restrictions of Sections 5(A) and 5(B), it is noted that applicant improperly relies upon M.P.E.P. § 803 to show a proper restriction. M.P.E.P. § 803 is directed to restriction between inventions. For restriction between species applicant is directed to M.P.E.P § 808.1(a), "Where there is no disclosure of relationship

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between species, they are independent inventions . . . , restriction is proper pursuant to 35 U.S.C. 121, and it is not necessary to show a separate status in the art of separate classification.”

The requirement is still deemed proper and is therefore made FINAL.

#### *Drawings*

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "138" and "318" have both been used to designate “lock body nut”. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “302” has been used to designate both “engagement slot” and “guide slot”. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

#### *Specification*

6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the specification does not provide proper antecedent basis for the claimed “lock means”, the specification should expressly recite what structure, materials, or acts perform the function recited in the claim element (See MPEP § 2181).

*Claim Rejections - 35 USC § 102*

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Blanck (US Patent # 5,465,519). Blanck discloses a firearm comprising a receiver (reference 3), a bolt (action) (reference 6) attached to the receiver and an integral lock assembly (lock means) (lock device) (reference 7), which interferes with a portion of the action when actuated, attached to the receiver, to prevent the firearm from being fired, wherein the lock means can only be actuated when the action is in an open position (column 7, lines 5-15) and cannot be accessed internally (column 7, lines 35-41). The lock assembly is a plunger lock (reference 11) comprising a lock body attached to the receiver and having an axial bore, a lock plunger disposed in the axial bore, and a lock key configured to engage an end of the plunger accessible from an exterior of the firearm (Figure 2).

*Claim Rejections - 35 USC § 103*

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blank as applied to claim 13 above, and further in view of Plebani (US Patent # 5,867,928). Although Blank does

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not expressly disclose the locking device interfering with the elevator, Plebani does. Plebani teaches a safety device that locks the breech-block slide (action) in the open position by interfering with the cartridge lifting device (reference 11) for double safety (column 4, line 16). Blanck and Plebani are analogous art because they are from the same field of endeavor: firearm locks. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the safety device interfering with the cartridge lifting device as taught by Plebani with the locking assembly of Blanck. The suggestion/motivation for doing so would have been to obtain a firearm with that was double safe.

11. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blanck as applied to claim 13 above, and further in view of da Silveira (US Patent # 6,513,273). Although Blanck does not expressly disclose the axial bore having a helical guide groove and a guide pin attached to the lock body and having an end that lies within the helical guide groove and when the lock key is used to rotate the plunger the helical guide groove of the plunger is forced to track along the guide pin, da Silveira does. Da Silveira teaches a safety device comprising a safety pin (reference 1) housed in a recessed hole of the receiver, having a helical groove (reference 6) and a guide pin (reference 10) wherein when the lock is actuated the helical guide groove is forced to track along the guide pin column 2, lines 11-32). Blanck and da Silveira are analogous art because they are from the same field of endeavor: firearm locks. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the plunger lock having a helical groove as taught by da Silveira with the lock assembly of Blanck. The suggestion/motivation for doing so would have been to obtain a locking device that was smoother and therefore easier to lock.

*Conclusion*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brush (US Patent # 4,133,128), Claridge (US Patent # 5,223,649), Mumbleau et al. (US Patent # 5,419,069), Wilhelm (US Patent # 3,740,884), Von Muller (US Patent # 5,241,769) and Irwin (US Patent # 6,510,778).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle (Shelley) Thomson whose telephone number is 703.306.4176. The examiner can normally be reached on Monday thru Thursday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703.306.4198. The fax phone numbers for the organization where this application or proceeding is assigned are 703.305.7687 for regular communications and 703.305.7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.

mrt  
February 21, 2003



HAROLD J. TUDOR  
PRIMARY EXAMINER